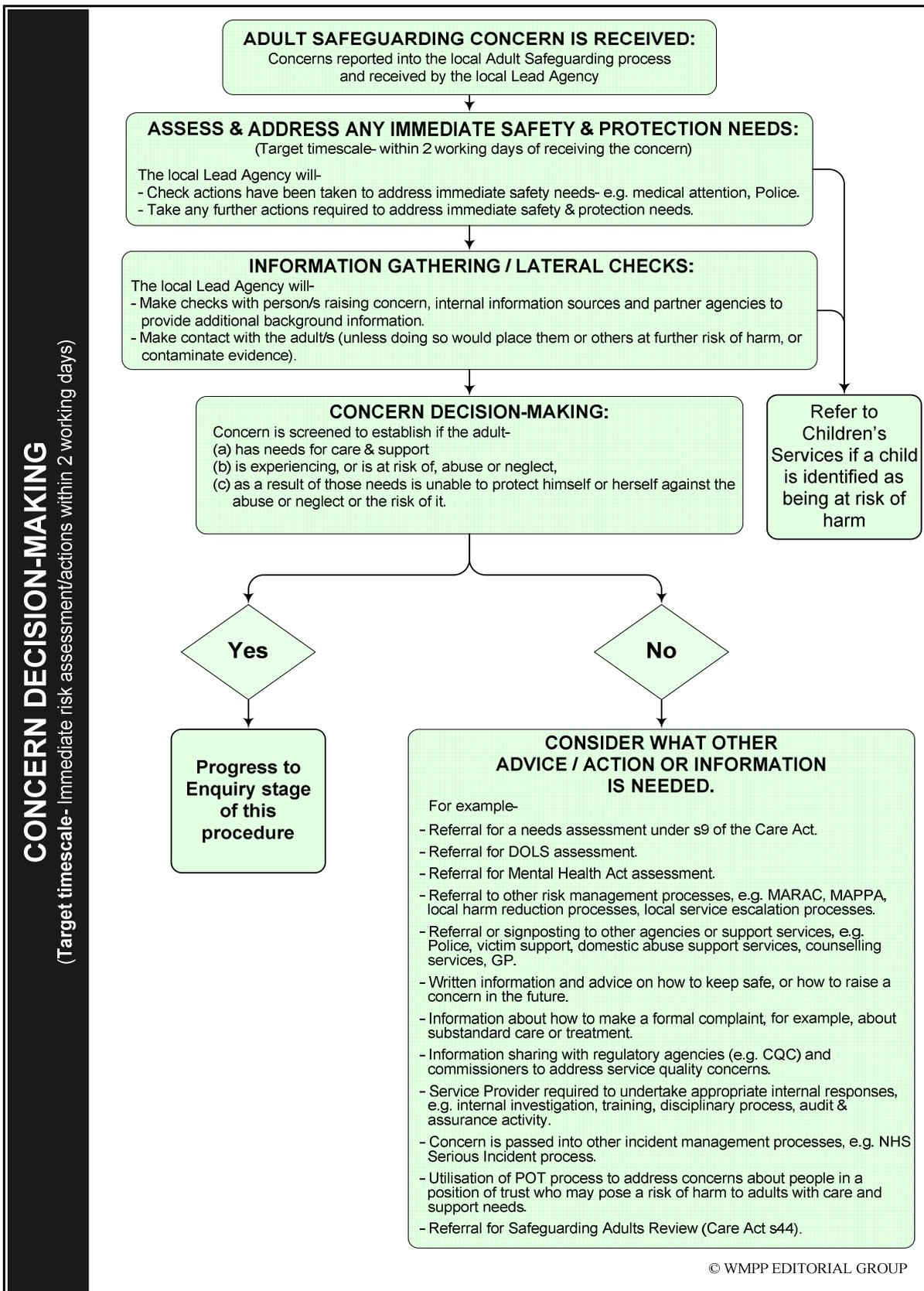


Section 3: Receiving concerns and decision making



Section 3: Receiving concerns and decision making

Overview

This section provides guidance on how concerns will be responded to and the decision making process regarding section 42 enquiries (Care Act 2014). The section includes guidance on the following:

- Referral points;
- Decision making;
- Historic abuse and deceased adults;
- Self neglect;
- Recording decisions;
- Risk assessment;
- Immediate actions;
- The potential source of risk is another adult with care and support needs;
- Section 42 Enquiries;
- Concerns not requiring a Section 42 enquiry;
- Notifications / information sharing with other agencies;
- Supporting an adult who makes repeated allegations;
- Responding to family members, friends and neighbours who make repeated allegations.

Referral points

3.1 Safeguarding concerns will be made to the respective Contact Centres for Staffordshire County Council and Stoke-on-Trent City Council.

Adult living in Stoke-on-Trent – Telephone: 0800 5610015

Adult living in Staffordshire – Telephone: 0345 604 2719

3.2 The Adults Safeguarding Form (AS1) (found on page 107) will be completed by the call taker and where appropriate the matter may be signposted to an alternative process e.g. assessment of care and support needs, provision of specialised advice etc.

Decision making

- 3.3 The concern will be passed on to a Managing Officer who will make a decision as to whether an Enquiry under Section 42 of the Care Act 2014 is to be considered. This decision to undertake an Enquiry will be based upon the following criteria:
- The concern relates to a person who is 18 or over;
 - The adult has needs for care and support (whether or not these are being met at this time);
 - The adult is experiencing, or at risk of abuse, neglect or self-neglect (see 3.9);
 - As a result of the adult's care and support needs the adult is unable to protect her/himself from the risk of abuse or the experience of abuse or neglect.
- 3.4 In considering the risk of abuse Managing Officers will need to be persuaded that a specific hazard has been identified and why this appears likely to occur. An unspecified general vulnerability or speculation about potential hazards will not be sufficient to justify a Section 42 Enquiry although it may in many cases trigger an assessment or reassessment of care and support needs under other relevant sections of the Care Act 2014.

Historic abuse and deceased adults

- 3.5 The duty to make enquiry under the Care Act 2014 relates to abuse or a risk of abuse or neglect that is current and therefore allegations of historic abuse will not be the subject of statutory enquiry under these procedures. Similarly, if the adult is no longer at risk of abuse due to having moved elsewhere with no likely return then no statutory enquiry is necessary although the considerations below will apply.
- 3.6 Where a concern is received for an adult who has died, the same approach will apply and an enquiry will only be made where there is a clear belief that other adults are, or may be, at risk of harm.
- 3.7 Where there is any level of concern about the circumstances of a service user's death, this must be reported to the local Coroner.
- 3.8 All such concerns will be considered to determine whether they demonstrate a potential current risk of harm to other adults and also whether they require criminal or other investigation through parallel processes (e.g. complaints,

inquests, regulatory investigation, serious incident investigations, health and safety investigations etc.).

- 3.9 In any case where there appears to be a current risk to other adults then appropriate steps must be taken to clarify this and to identify the adults who may be at risk. Enquiries under Section 42 can then be considered in respect of those other identified individuals.
- 3.9.1 In cases where an adult with care and support needs has died after suffering abuse or neglect and where there is a concern about how agencies worked together to safeguard the adult there is a statutory requirement for the Safeguarding Adults Board (SAB) to undertake a Safeguarding Adult Review (SAR) under Section 44 of the Care Act 2014.
- 3.9.2 Under section 44 of the Care Act 2014 the Safeguarding Adults Board (SAB) may also undertake a Safeguarding Adults Review in situations where an adult has suffered serious abuse or neglect and has not died but where there are concerns about how agencies worked together to safeguard the them.
- 3.9.3 In both the above situations staff who become aware of such a case must report it to their Safeguarding Adults Lead, who may make the appropriate referral to the SAB using the Protocol^{xviii} available at <https://www.ssaspb.org.uk/Guidance/Safeguarding-Adult-Reviews-SARs.aspx>.

Self-neglect

- 3.10 The Care and Support Statutory Guidance^{xix} to the Care Act 2014 makes clear that self-neglect is not necessarily to be considered as a cause for Enquiry under Section 42 and that this decision is to be made on a 'case by case' basis, dependent on their ability to protect themselves by controlling their own behaviour.
- 3.11 Managing Officers will consider concerns relating to self-neglect cases to confirm that the following factors apply:
- There is a clear current risk to the adult of immediate serious harm;
 - An assessment of care and support needs has already been undertaken or attempted;
 - A care or treatment plan has been proposed and has either been rejected by the adult or they have not complied or co-operated with the proposed care.
- 3.12 If the above criteria apply then a Section 42 Enquiry will be considered. In other situations the respective assessments and contributions should be instigated in

accordance with other sections of the Care Act 2014 (Section 9, 11 and 18 typically) prior to further action being taken under these Safeguarding Procedures.

- 3.13 In cases of self-neglect that do progress to a Section 42 Enquiry the Planning Discussion will be convened as a meeting by the local responsible social care team with appropriate specialist input as necessary.

Recording decisions

- 3.14 Where a decision is made that no statutory enquiry is required for any of the reasons above the details of the decision will be recorded on the Adults Safeguarding Form (AS1) and the Social Care Information databases will be updated to reflect this decision (the systems used will vary between Staffordshire and Stoke-on-Trent).

- 3.15 Where there has been a previous concern in the past 12 months and this did not proceed to a Section 42 Enquiry then the new concern must be considered in context with previous concerns and decision making must be recorded. This is to ensure that the reason for the repeated concerns are explored and understood and that the causes of this have been addressed.

Risk assessment

- 3.16 In each case an assessment of risk will be undertaken in accordance with the specific guidance in Section 10: Guidance on risk assessment and risk management (page 96). The initial risk assessment will be based on the information provided in the concern raised. It will take account of the hazards associated with the alleged abuse and also any protective and mitigating factors that are known.

Immediate actions

- 3.17 Where a Managing Officer decides that a concern should be considered for a Section 42 Enquiry they will ensure that:
- A decision is made on how urgently initial contact will be made with the adult;
 - Any necessary immediate action has been taken to protect the adult and/or others;
 - All available details and other background information held by the agency are collated;
 - The level of past harm and future risk has been assessed;

- Other agencies are contacted to hold a Planning Discussion;
- If there are child protection concerns a referral is made in line with the local Inter-agency Child Protection Procedures;
- If the concern involves a number of adults in a family, in the community or widespread institutional abuse, consideration is given to whether co-ordinated enquiries are indicated (including the procedure for responding to organisational concerns).

The potential source of risk is another adult with care and support needs

- 3.18 In cases where the potential source of risk is another adult with care and support needs the agencies responsible for their care, if any, should be informed. This person may need an assessment (e.g. Care Act 2014, Mental Health Act 1983 (revised 2007)^{xx}, Mental Capacity Act 2005, and Deprivation of Liberty Safeguards (DoLS)^{xxi} in their own right to ascertain whether they require any specialist services. They may also be entitled to the support of an advocate or an Independent Mental Capacity Advocate (IMCA) if they have been assessed as lacking mental capacity.
- 3.19 If the incident is subject to a criminal investigation the potential source of risk may need assistance to ensure they are appropriately represented and that they receive appropriate assistance in accordance with the Police and Criminal Evidence Act 1984 (PACE)^{xxii}.

Safeguarding Enquiries (under Section 42 of the Care Act 2014)

- 3.20 If the Managing Officer decides that the concern does require an enquiry under Section 42 of the Care Act 2014 this will be planned in accordance with Section 4: Safeguarding Enquiries (page 36).
- 3.21 If a concern has been raised and it relates to a current live Section 42 Enquiry then the details will be recorded and passed immediately to the Safeguarding Officer responsible for that enquiry unless the Managing Officer believes there are good reasons not to do so.

Concerns not requiring a Section 42 Enquiry

- 3.22 If the Managing Officer decides that a Section 42 Enquiry is not appropriate then they must consider whether any alternative action is required. Examples of alternative and complementary processes are given below:
- Referral for a needs assessment under Section 9 of the Care Act 2014;

- Referral for Deprivation of Liberty Safeguards (DoLS) assessment;
- Referral for Mental Health Act (MHA) 1983/2007 assessment;
- Referral to other risk management processes, e.g. Multi-Agency Risk Assessment Conference (MARAC)^{xxiii}, Multi-Agency Public Protection Arrangement (MAPPA)^{xxiv}, local harm reduction processes etc.
- Case conferences where there are complex general risk issues or where multi-agency discussion and communication is necessary;
- Referral or signposting to other agencies or support services, e.g. Police, victim support, domestic abuse support services, counselling services, General Practitioner (GP), Trading Standards etc.
- Written information and advice on how to keep safe, or how to raise a concern in the future;
- Information about how to make a formal complaint, for example, about substandard care or treatment;
- Information sharing with regulatory agencies (e.g. CQC) and commissioners to address service quality concerns;
- Service Provider required to undertake appropriate internal responses, e.g. internal investigation, training, disciplinary process, audit & assurance activity;
- Concern is passed into other incident management or clinical governance processes, e.g. NHS Serious Incident (SI) process;
- Communication to Coroners;
- Referral to the Position of Trust (PoT) process to consider a person who may pose risks to adults with care and support needs;
- Referrals to housing;
- Referrals for advocacy;
- Referral for Safeguarding Adult Review (SAR) (Care Act 2014; section 44).

3.23 Actions taken, or information and advice provided, should aim to promote the adult's wellbeing, prevent harm, reduce the risk of abuse or neglect, and promote an approach that concentrates on improving life for the adults concerned, including enabling the adult to achieve resolution and recovery.

3.24 When deciding what other advice/action or information is required, the Lead Agency retains a level of accountability for the appropriateness of the actions and for making any necessary referrals to other agencies. For example, it is essential that the person has the ability and means to contact other sources of support if giving signposting advice, or that other agencies or provider services are willing and able to address concerns appropriately through their internal processes. If the

Managing Officer has concerns that the issue will not be dealt with appropriately, internal management and local inter-agency escalation processes should be followed such as the SSASPB Escalation Policy^{xxv}.

Notifications / information sharing with other agencies

- 3.25 The Lead Agency will consider what feedback and information needs to be shared with other agencies. General information sharing principles apply – the consent of the adult involved should be gained; if information is to be shared without consent, the adult should be informed what information will be shared, with whom, and why.
- 3.26 In cases involving service quality concerns in regulated and/or commissioned services, information about the quality concern must be shared with the CQC and relevant commissioners of services (e.g. Local Authority, CCG's, NHS England^{xxvi}).
- 3.27 In cases where a crime has been committed or may be committed, the police should be informed.
- 3.28 The person or agency that raised the concern should be notified of the decision and outcome wherever appropriate and safe to do so.

Supporting an adult who makes repeated allegations

- 3.29 An adult who makes repeated allegations that have been looked into and are unfounded should be treated *without prejudice*.
- Each allegation must be risk assessed and reviewed to establish if there is new information that requires action under these procedures.
 - A risk assessment should be undertaken, where appropriate, and measures taken to protect staff and others.
 - Each incident must be recorded.
 - Organisations should have procedures for responding to repeated allegations that respect the rights of the individual, while protecting staff from the risk of unfounded allegations.

Transition from children's services into adult services

- 3.30 Where a young adult is in the process of transferring from children's to adult services the normal referral route will apply from the age of 18. Adult social care

services will be responsible for any safeguarding enquiry but will involve children's services and providers as necessary.

- 3.31 Where a child has been subject to statutory protective measures under the Children Act 1989 and where there may be a need for further formal protection (e.g. Court of Protection, Deprivation of Liberty Safeguards (DoLS), Guardianship under the Mental Health Act 1983/2007) when the child becomes an adult a meeting should be convened by the responsible adult services transition worker to ensure that this is considered well in advance of the expiry of any orders.
- 3.32 If further statutory protection is indicated adults' and children's services must work together to ensure that all relevant information is shared and considered and that a shared view of the future risk is achieved.

ii	DoH Safeguarding Principles
iii	MCA 2005
iv	Information Sharing
v	Human Rights Act
vi	Care Act 2014
vii	CQC
viii	Public Interest Disclosure Act 1998
ix	Disclosure and Barring Scheme (DBS)
x	Nursing and Midwifery Council (NMC)
xi	Health and Care Professions Council (HCPC)
xii	General Medical Council (GMC)
xiii	DPA Act
xiv	MCA Code of Practice
xv	Contact Centre
xvi	Local Authority Children's Services
xvii	West Mids PiPoT
xviii	SAR Protocol
xix	Care Act guidance
xx	Mental Health Act
xxi	DoLS
xxii	Police and Criminal Evidence Act 1984 (PACE)
xxiii	MARAC
xxiv	Multi-Agency Public Protection Arrangement (MAPPA)
xxv	SSASPB Escalation Policy
xxvi	NHS England
xxvii	Section 75 of the National Health Service Act 2006)
xxviii	Multi-Agency Safeguarding Hub (MASH)
xxix	ADASS https://www.adass.org.uk/media/5414/adass-guidance-inter-authority-safeguarding-arrangements-june-2016.pdf
xxx	<i>Youth Justice and Criminal Evidence Act 1999</i>
xxxi	One Staffordshire Information Sharing Protocol
xxxii	Sexual Assault and Rape Centre (SARC)
xxxiii	Crown Prosecution Service (CPS)